

CHURCHILL CORPORATION

IBLA 76-643

Decided October 12, 1976

Appeal from a decision of the Colorado State Office, Bureau of Land Management, rejecting appellant's noncompetitive oil and gas lease offer, C-23795.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: First Qualified Applicant

An oil and gas lease offer filed on behalf of a corporation may incorporate evidence of qualifications by reference to the serial number of a case record in which such evidence has already been filed with the Bureau of Land Management (BLM). However, reference to a file which contains no evidence of the authority of the officer signing the lease offer to execute such instruments on behalf of the corporation is not sufficient and requires rejection of the offer. The fact that the required evidence is on file in another state office of the BLM under another serial number will not avail applicant where the lease offer contains no reference to that file.

2. Oil and Gas Leases: Applications: Amendments -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: First Qualified Applicant

An oil and gas lease offer filed by a corporation under the simultaneous filing procedures, 43 CFR Subpart 3112, which is defective for failure to provide evidence

of corporate qualifications may not be cured by subsequent filing of supplemental evidence after the drawing is held and must be rejected.

APPEARANCES: Peter J. Wall, Esq., of Burns and Wall, Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

The Churchill Corporation appeals from a May 12, 1976, decision of the Colorado State Office, Bureau of Land Management (BLM), rejecting appellant's noncompetitive oil and gas lease offer (C-23795) which received first priority for parcel 333 in the April 1976 drawing of simultaneously filed oil and gas lease offers. The decision below was based on appellant's noncompliance with the regulations regarding evidence of corporate qualifications. A notation on the lease offer indicated that appellant's corporate qualifications could be located in the State Office's file number C-0123463. A check of that file after the drawing disclosed that there was no evidence of the authority of the corporate officer signing the lease offer to execute such instruments on behalf of the appellant corporation.

Counsel for appellant contends in the statement of reasons for appeal that appellant is in fact a corporation authorized and qualified to hold oil and gas leases. Further, it is asserted that appellant has maintained its primary qualifications file with the Wyoming State Office of the BLM in file number W-56943, although the appellant has also filed evidence of qualifications with the Colorado State Office in file number C-0123463. Appellant asserts that evidence of the authority of the officer which signed the lease offer in question here had in fact been filed with the Wyoming State Office prior to the filing of the offer in this case.

It is further contended on behalf of appellant that the Colorado State Office should be charged with knowledge of the authority of the officer which was on file at the time in the Wyoming State Office. Finally, appellant asserts that the BLM was in error in failing to consider the supplemental statement of qualifications filed on May 12, 1976, in the Colorado State Office which contained evidence of the authority of the officer in question to execute lease offers on behalf of the corporation.

Several issues are raised by this appeal. The first question presented is whether an oil and gas lease offer filed on behalf of a corporation is properly rejected where the file which is incorporated by reference in the offer as the location

of evidence of the corporation's qualifications contains no evidence of the authority of the signing officer to execute lease offers on behalf of the corporation. An ancillary question is whether the fact that such evidence is on file in another BLM state office will avail appellant where the lease application makes no reference to such file. Appellant also raises the issue of whether a defect in a simultaneously filed noncompetitive oil and gas lease offer may be cured by the filing of a supplemental statement of qualifications after the drawing is held.

[1] A corporation making an offer for an oil and gas lease is required by regulation to provide certain evidence of its qualifications to hold such leases.

If the offeror is a corporation, the offer must be accompanied by a statement showing * * * (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters * * *. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted. [Emphasis supplied.]

43 CFR 3102.4-1.

The provisions of this regulation are mandatory. An oil and gas lease offer filed on behalf of a corporation which is not accompanied by the necessary evidence of qualifications or which does not contain a reference to a case record where such evidence has previously been filed must be rejected for failure to comply with the regulation. Manhattan Resources, Inc., 22 IBLA 24, 25 (1975). The appellant has failed to meet this requirement.

The only reference on the lease offer with respect to qualifications is to file C-0123463. 1/ The Colorado State Office has stated and appellant has not denied that this file did not contain any evidence of the authority of the officer who signed the lease offer in this case to execute such instruments for the appellant at the time appellant's offer was drawn first. Under similar

1/ The regulation quoted above (43 CFR 3102.4-1) which permits reference to evidence of corporate qualifications previously filed also requires a statement regarding any amendments to the corporate qualifications since the previous filing. Appellant failed to make any such statement on the entry card.

circumstances this Board has upheld a decision rejecting an oil and gas lease offer. Manhattan Resources, Inc., supra. The fact that the required evidence of qualifications is on file in another state office of the BLM under another serial number cannot avail the appellant where the lease offer contains no reference to that file as required by the regulation. 43 CFR 3102.4-1.

[2] An oil and gas lease offer filed under the simultaneous filing procedures, 43 CFR Subpart 3112, which is defective for failure to comply with a mandatory regulation may not be cured by subsequent filing of supplemental information after the drawing is held. Manhattan Resources, Inc., supra at 26. Thus, the evidence of the authority of the signing officer to execute lease offers which was filed by appellant on May 12, 1976, could not cure the defect which required rejection of the lease offer in this case. The rights of third parties are involved and the Secretary is bound by his own regulations. McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir., 1955).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Joseph W. Goss
Administrative Judge

